

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GERROD HERNDON, D1036323,

Plaintiff,

v.

MARIN COUNTY CONSERVATORSHIP,

Defendant(s).

Case No. [21-cv-00649-CRB](#) (PR)

ORDER OF DISMISSAL

(ECF No. 6)

Plaintiff, a former state prisoner currently at Ruby's Valley Care Home (RVCH), an assisted living facility in Fresno, California, has filed a pro se complaint under 42 U.S.C. § 1983 challenging the conservatorship from Marin County Superior Court pursuant to which he is committed to RVCH. Plaintiff also seeks leave to proceed in forma pauperis (IFP) which, based solely on his affidavit of poverty, is GRANTED.

Plaintiff's § 1983 action must be DISMISSED because it is well established that lower federal courts are without subject matter jurisdiction to review state court decisions. See District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 486-87 (1983); Rooker v. Fidelity Trust Co., 263 U.S. 413, 416 (1923); see also Kougasian v. TMSL, Inc., 359 F.3d 1136, 1139 (9th Cir. 2004) (Rooker-Feldman doctrine bars federal district courts "from exercising subject matter jurisdiction over a suit that is a de facto appeal from a state court judgment."). Plaintiff's only possible challenge to his conservatorship in federal court is to file a petition for a writ of habeas corpus under 28 U.S.C. § 2254 after exhausting state judicial remedies. Cf. Duncan v. Walker, 533 U.S. 167, 176 (2001) ("federal habeas corpus may be available to challenge the legality of a state court order of civil commitment").

The clerk is directed to close the case and terminate all pending motions as moot.

IT IS SO ORDERED.

Dated: February 26, 2021



CHARLES R. BREYER
United States District Judge